

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

| | | |
|--|---|--------------------|
| JUVENTINO SOLIS |) | |
| Claimant |) | |
| VS. |) | |
| |) | Docket No. 190,678 |
| BROOKOVER RANCH FEEDYARD, INC. |) | |
| Respondent |) | |
| AND |) | |
| |) | |
| UNITED STATES FIDELITY & GUARANTY CO. |) | |
| Insurance Carrier |) | |

ORDER

Claimant requested review of the preliminary hearing Order dated March 3, 1997, entered by Administrative Law Judge Kenneth S. Johnson.

ISSUES

The issue before the Administrative Law Judge was whether claimant's two prostheses needed repair as a result of natural wear and tear or whether they were damaged while working such as to constitute a new and distinct accidental injury. The Administrative Law Judge found claimant had sustained a new and distinct injury and, therefore, determined that the prostheses' repair should not be ordered in this proceeding.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the entire record, for purposes of preliminary hearing the Appeals Board finds as follows:

The preliminary hearing Order should be affirmed.

Claimant severed his left fingers while working for the respondent in August 1993, and as a result of that injury, obtained two prostheses. This docket number represents the claim for that August 1993 accident. The parties stipulated claimant's prostheses are now damaged as the result of work claimant performed for the respondent after his return to work following the 1993 accident.

Under K.A.R. 51-9-2, damage to an artificial member by work activities constitutes personal injury by accident. Therefore, the Appeals Board agrees with the Administrative Law Judge's analysis and conclusion that claimant has sustained a new accident and must bring a new claim for replacement and repair of the damaged devices.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the preliminary hearing Order dated March 3, 1997, should be, and hereby is, affirmed.

IT IS SO ORDERED.

Dated this ____ day of May 1997.

BOARD MEMBER

c: Robert A. Levy, Garden City, KS
Billy E. Newman, Topeka, KS
Kenneth S. Johnson, Administrative Law Judge
Philip S. Harness, Director